

DECLARATION OF D. ERIC SOWERS

1. My name is D. Eric Sowers and I am one of the attorneys for the plaintiffs in this case.
2. On March 19, 2010, I wrote a letter to Eric Tolen, currently incarcerated in the Missouri Department of Corrections, at his institutional address in Jefferson City, Missouri. The letter addressed a number of details relating to his preparation of a claim on his own behalf for cost and attorney fees, for the work he had done in this matter.
3. The pertinent part of my letter to Mr. Tolen read as follows:

“With respect to costs that you mention, it is clear that there was a filing fee and an appeal fee. Midwest Litigation, which transcribed the clients’ depositions, tells us the transcription fee was never paid. When we checked with them they said they had written off the billing. With regard to mediation fees, we have no record of payment and it does not appear to us that mediation fees are taxable costs, in any event.

We can’t give an estimate for your photocopies, because when we entered the case there was hardly anything in the way of discovery documentation in your file; we had to have the County provide us with duplicates, and the boxes of documents they gave us were neither Bates stamped nor identified as to what was from their own files and what had been produced by you. I’m talking about hundreds and hundreds of pages of documents of uncertain provenance, and I wouldn’t even *attempt* to affirm to Judge Hamilton how many copies were made at your expense. On top of that, you undoubtedly made multiple copies of pleadings and provided copies for the 8th Circuit in support of

your appeal. Again, that would require a wild guess on our part and we are unwilling to engage in speculation.”

We including in the Bill of Costs the filing fee and notice of appeal fee, as well as the costs of the depositions of the plaintiffs. The deposition costs will be paid to the reporting service; the filing fee and appeal fee will be paid to you.”

The typographical mistake in the last paragraph was also in the original letter to Mr. Tolen.

I declare the foregoing is true under the penalty of perjury, this 13th day of May, 2010.


D. Eric Sowers